

SENATE BILL 2302
By Holcomb

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 6, Part 70, relative to obtaining approval or informed consent of certain persons prior to submitting student to psychological treatment or experimental procedures.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, Part 70, is amended by adding the following language as a new, appropriately designated section:

Section _____. (a) As used in this section, unless the context otherwise requires:

(1) "Crisis intervention" means emergency action taken in response to a clear and present danger to health or safety.

(2) "Experimental procedures" are any assessment methods, curricula, programs or treatments of any kind for which reliability and validity data based on controlled scientific study have not been published in at least two (2) professional peer-reviewed journals.

(3) "Psychological treatment" means an interpersonal interaction with the objective of modifying the perception of, or the adjustment of, a person's attitudes, feelings, values, self-concept, personal adjustment, motives, personality characteristics of adaptive (psychological coping) patterns, which does not qualify as "crisis intervention" or a "simple act of persuasion" as defined herein.

(4) "Simple acts of persuasion" are interpersonal interactions in which the effectiveness of the "persuasion" is not recorded and there is no record of the

child's response to the persuasion. Simple acts of persuasion are not accompanied by guided imagery, visual aids, audio tapes, hand-outs, questionnaires, or other supportive media. Simple acts of persuasion occur by demonstrating and/or endorsing the value of a desired behavior and/or by rewarding the child's spontaneous display of a desired behavior.

(b) All instructional materials, including teacher's manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, evaluation, psychological treatment, or experimental procedure as part of any applicable program shall be available for inspection by the parents or legal guardians of the children.

(c) No student shall be required, as part of any applicable program, to submit to psychological treatment or experimental procedures or to submit to a survey, analysis, or evaluation that reveals information concerning:

- (1) political affiliations;
- (2) mental and psychological problems potentially embarrassing to the student or the student's family;
- (3) sex behavior and attitudes;
- (4) illegal, anti-social, self-incriminating, and demeaning behavior;
- (5) critical appraisals of other individuals with whom respondents have close family relationships;
- (6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; or
- (7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program);

without the prior informed consent of the student, if the student is an adult or emancipated minor, or if the student is an unemancipated minor without the prior written informed consent of the parent or legal guardian.

(d) Before experimental procedures can be used within a local education agency, the review and approval of a locally and duly constituted Institutional Review Board (IRB) must be obtained. Each IRB must be created in accordance with federal regulations pertaining to the creation of Institutional Review Boards (34 CFR Part 97). If an IRB permits the use of an experimental procedure, no student shall be required without the prior informed consent of the student, if the student is an adult or emancipated minor, or in the case of an unemancipated minor without the prior written informed consent of the parent or guardian, to submit to any experimental procedure as part of any educational program.

(e) Local education agencies and institutions shall give parents or legal guardians and students effective notice of their rights under this section.

(f) The commissioner of education shall take such action as the commissioner determines appropriate to enforce this section, except that action to terminate assistance provided under an applicable program shall be taken only if the commissioner determines that:

- (1) there has been a failure to comply with this section; and
- (2) compliance with such action cannot be secured by voluntary means.

(g) The commissioner shall establish or designate an office and review board within the department of education to investigate, process, review, and adjudicate violations of the rights established under this section.

SECTION 2. For purposes of administrative actions necessary under this act, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect beginning with the 1996-97 school year at the time such school year begins in each local education agency, the public welfare requiring it.

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